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SUBJECT: ENERGY CHARTER TREATY SECRETARIAT REACTION TO  
RUSSIAN REJECTION

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¶1. (SBU) On August 19, 2009 Econ Officer met with a contact at the Energy Charter Secretariat to discuss Russia's rejection of the Energy Charter Treaty (ECT). The Russians have informally informed the Secretariat of their decision, but have not yet formally notified the ECT repository in Portugal. The Secretariat is disappointed by the Russian decision, but is waiting on formal notification from the Russians and discussions with Member States before deciding on the course of action going forward. The Russian rejection will be discussed at two already scheduled ECT meetings on September 10 (Trade and Transit Group) and September 22 (Strategy Group). Despite Russia's decision to not provisionally apply the treaty, the Secretariat still sees the possibility of continuing to engage Russia in the ECT process. As a signatory, Russia could still attend meetings and participate in the process as an observer.

¶2. (SBU) While the Russian statement makes no mention of the international tribunal hearing the Khodorkovsky case in The Hague, our contact believes it definitely played a role in the Russian rejection. The tribunal is currently deliberating whether or not Russia is bound by the terms of the ECT because of its provisional application. The draft Russian rejection, according to an unofficial ECT translation, states that the Russian Federation "did not apply provisionally any Treaty provision to the extent that such provisional application was inconsistent with the Constitution, laws, or regulations of the Russian Federation." Our contact believes that Russian PM Putin's decision to sign the order rejecting the treaty is an emotional response to the Khodorkovsky case because a negative ruling could result in Russia having to pay billions of dollars in damages.

¶3. (SBU) The Secretariat believes that even without Russia the ECT has an important role to play. Going forward, however, the Secretariat sees the need for a strong political will from its member states to push the ECT process. Our contact emphasized that a number of member states are still quite interested in developing a transit protocol and the Secretariat has seen a strong uptick in interest in the ECT from the Chinese. The Secretariat also believes now is not the time to make any strategic decisions about the ECT, because it will be important to see whether or not Russia will be willing to remain engaged as an observer.

Murray

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